



Expedited Acquisition and Assistance Procedures Action Memoranda - Posting Procedures for Justifications & Approvals (J&As)

A Mandatory Reference for ADS Chapter 302

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Expedited Acquisition and Assistance Procedures Action Memoranda - Posting Procedures for Justifications & Approvals (J&As)

The Agency has issued a number of Expedited Acquisition and Assistance Procedures Action Memoranda (also referred to as Expedited Procedures Packages or EPPs) which have provided either a 1) Determination & Findings (D&F) or 2) Class J&A supporting use of other than full and open competitive procedures. The statutory authority upon which EPPs are based is implemented in AIDAR 706.302-70(b)(3)(i) or (ii) "Impairment of foreign aid programs" and ADS 302 requires that future EPPs use only D&Fs. An example of an EPP is the "Expedited Acquisition and Assistance Procedures for HIV/AIDs and Infectious Disease".

When using the authority under these Expedited Acquisition and Assistance Procedures Action Memoranda, Contracting Officers (COs) must follow the procedures below:

Procedural Requirements

1. J&A requirement. COs must issue a standard J&A to document each use of the D&F authority for other than full and open competitive procedures. The J&A will cite the EPP (and D&F) as the authority for the action; the CO must include a copy of the EPP in the contract file. [FAR 6.305](#) requires that COs make J&As publicly available within 14 days.

Note: COs may use the J&A template (Attachment A).

2. Posting the Memorandum in FedBizOpps (FBO) per FAR 6.305

COs will comply with the public disclosure requirements at FAR by posting both the

- Agency hyperlink for the EPP with D&F¹; and
- Cleared and approved J&A for each contract action using the authority of the EPP.

C. Procedures for posting the J&A:

Prior to posting, COs must obtain the Agency Competition Advocate's (ACA) clearance for each J&A in accordance with the procedures in section **302.3.4.1.c**.

Steps for posting in FBO:

COs will follow standard FBO procedures for posting the J&A, and include the following information, as appropriate:

¹ Action Memos with D&F documents will be posted by the Agency Competition Advocate (ACA) to the external Business and Regulations page at <http://www.usaid.gov/business/regulations/>.

1. Notice Type	
<u>J&A Statutory Authority</u>	Select "FAR 6.302-5 Authorized or required by statute."
2. Notice Details	
Description box:	In addition to the description of the supplies/services, insert "As documented herein, this action is authorized under the USAID Action Memorandum for Expedited Acquisition and Assistance Procedures for [fill-in name] The Determination & Findings statutory authority is based on AIDAR 706.302-70(b)(3)(ii)."
3. Attachments	
<u>Package Type:</u> <u>Label:</u>	Select "Other." Insert "Action Memorandum with Determination & Findings".
<u>File Document #1:</u>	Insert the Agency hyperlink to the EPP with D&F document in the appropriate box.
<u>Description</u> box:	Type "EPP with Determination & Findings for Contracts Awarded or Modified in support of Activities and Programs related to [fill-in name]".
Select "Add another File or Link to this Page."	Follow the appropriate steps to upload the cleared J&A.

ATTACHMENT A
TEMPLATE

JUSTIFICATION AND APPROVAL (J&A)

The purpose of the cited EPP and this J&A Template is to document the bases for awarding or modifying a contract using less than full and open competition. This template J&A contains the requirements at FAR 6.303-2 for the content of justifications. An individual J&A should not be used to support more than one contract award or modification. Approval of the J&A does not obviate the need to prepare a Memorandum of Negotiation, conduct a cost/price analysis, and make a responsibility determination.

TO: [Name of USAID Contracting Officer]

CC: [Agency Competition Advocate]

[Guidance: the CO must send a copy to the Agency Competition Advocate if the modification or contract award is valued at \$150,000 or above.]

FROM: [Name of USAID Contracting Officer's Representative (COR)/Technical Requiring Officer, and Office]

DATE: _____

RE: *[If this is a follow-on or a modification, reference the original award, with title and contract number]*

SUBJECT: Justification for Other than Full and Open Competition under the *[insert the title of the EPP being used]*

We request approval of this justification for use of other than full and open competition pursuant to the authorities under the EPP "Expedited Acquisition and Assistance Procedures for *[insert the title of the EPP being used]*" (the "Expedited Procedures Package"), approved on *[insert date the EPP was approved]*. Your approval of this J&A constitutes the justification for other than full and open competition as required by Tab 1 (D&F for the Authorization of Less than Full and Open Competitive Procedures in the Modification or Award of Contracts) of the EPP.

- a) Nature and/or description of the action being approved.
- b) A description of the supplies or services required to meet USAID's needs (including the estimated value).

- c) Identification of statutory authority permitting other than full and open competition.

AIDAR 706.203-70 and 40 U.S.C. §113; See Action Memorandum entitled “[insert the title of the EPP being used]” approved [insert date].

The CO must also attach the actual EPP to this J&A for the contract file.

- d) A discussion of the proposed contractor’s unique qualifications or the nature of the acquisition that requires use of the authority cited.

Guidance: The authority under the EPP is typically to be utilized only on an “as-needed” basis. Provide the programmatic and technical bases for using less than full and open competitive procedures.

- e) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.

Guidance: Publication of a notice is not required per the determination at AIDAR §705.202(b); however, you must describe efforts to solicit from as many potential sources as is practicable.

- f) A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.

Guidance: In order to ensure cost reasonableness, the Mission or Bureau may be required to provide an independent government estimate to the CO.

- g) A description of the market research conducted (see FAR Part 10) and the results or a statement of the reason(s) market research was not conducted.

- h) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

- i) A statement of the actions, if any, USAID may take to remove or overcome any barriers to competition before any subsequent acquisition of the supplies or services required.

RECOMMENDATION

It is recommended that you approve this justification for use of other than full and open competition pursuant to the Action Memorandum “[insert the title of the EPP being used]”, approved on [insert date]. Your approval of this J&A constitutes the justification for other than full and open competition as required by Tab 1 (D&F for the Authorization of Less than Full and Open Competitive Procedures in the Modification or Award of Contracts) of the EPP.

CERTIFICATION:

The requirement for technical certification at FAR 6.303-2(b) is fulfilled through:

- a. The signature of the Technical Officer below certifying the specific supporting data for this JJ&A; and
- b. The EPP entitled “[insert the title of the EPP being used]” approved [insert date] (attached).

Technical Officer:

I hereby certify that the supporting data which form a basis for the justification are complete and accurate to the best of my knowledge and belief.

Technical Officer

Date

APPROVAL:

Contracting Officer

Date:

CLEARANCE:

RLA or GC/A&A

Date:

[Guidance: RLA or GC/A&A clearance is the only clearance that the EPPs require. Your Mission, Bureau, or Independent Office may require additional clearances.]

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